H. R. 5525

To amend the Bank Secrecy Act to expand the scope and authorities of anti-money laundering safeguards under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2021

Mr. MALINOWSKI (for himself, Ms. SALAZAR, Mr. COHEN, Mr. WILSON of South Carolina, Ms. SPANBERGER, and Mr. HUDSON) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Bank Secrecy Act to expand the scope and authorities of anti-money laundering safeguards under such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Establishing New Authorities for Businesses Laundering and Enabling Risks to Security Act” or the “ENABLERS Act”.

SEC. 2. FINANCIAL INSTITUTION DEFINITION.

(a) IN GENERAL.—Section 5312(a)(2) of title 31, United States Code, as amended by the William M. (Mac)
Thornberry National Defense Authorization Act for Fiscal Year 2021, is amended—

(1) by redesignating subparagraphs (Z) and (AA) as subparagraphs (GG) and (HH), respectively; and

(2) by inserting after subparagraph (Y) the following:

“(Z) a person engaged in the business of providing investment advice for compensation;

“(AA) a person engaged in the trade in works of art, antiques, or collectibles, including a dealer, advisor, consultant, custodian, gallery, auction house, museum, or any other person who engages as a business in the solicitation or the sale of works of art, antiques, or collectibles;

“(BB) an attorney, law firm, or notary involved in financial activity or related administrative activity on behalf of another person;

“(CC) a trust or company service provider, including—

“(i) a person involved in forming a corporation, limited liability company, trust, foundation, partnership, or other similar entity or arrangement;
“(ii) a person involved in acting as, or arranging for another person to act as, a registered agent, trustee, or nominee to be a shareholder, officer, director, secretary, partner, signatory, or other similar position in relation to a person or arrangement;

“(iii) a person involved in providing a registered office, address, or other similar service for a person or arrangement; or

“(iv) any other person providing trust or company services, as defined by the Secretary of the Treasury;

“(DD) a certified public accountant or public accounting firm;

“(EE) a person engaged in the business of public relations, marketing, communications, or other similar services in such a manner as to provide another person anonymity or deniability;

“(FF) a person engaged in the business of providing third-party payment services, including payment processing, check consolidation, cash vault services, or other similar services designated by the Secretary of the Treasury;”.
(b) Rulemaking.—

(1) In general.—Not later than December 31, 2023—

(A) the Secretary of the Treasury shall re-
peal section 103.170 of title 31, Code of Fed-
eral Regulations (relating to exemptions for cer-
tain financial institutions);

(B) the Secretary of the Treasury shall
issue one or more rules to require all financial
institutions (as defined in section 5312(a)(2) of
title 31, United States Code) that have not al-
ready done so to—

(i) report suspicious transactions
under section 5318(g) of title 31, United
States Code;

(ii) establish anti-money laundering
programs under section 5318(h) of title
31, United States Code;

(iii) establish due diligence policies,
procedures, and controls under section
5318(i) of title 31, United States Code; and

(iv) identify and verify their account
holders under section 5318(l) of title 31,
United States Code.
In promulgating a rule under paragraph (1)(B) to implement subparagraph (CC) of section 5312(a)(2) of title 31, United States Code, as added by subsection (a), the Secretary of Treasury shall exclude from the category of covered persons—

(A) any government agency; and

(B) any attorney or law firm that uses a paid trust or company service provider, including any paid entity formation agent, operating within the United States.

(c) Effective Date.—

(1) In general.—Subparagraphs (Z) through (FF) of section 5312(a)(2) of title 31, United States Code, as added by subsection (a), shall take effect on December 31, 2023.

(2) Limitation on exemptions.—With respect to a person described under subparagraphs (Z) through (FF) of section 5312(a)(2) of title 31, United States Code, as added by subsection (a), the Secretary of the Treasury may not exempt such person from any requirement under subchapter II of chapter 53 of title 31, United States Code, including any delay in such application.
(3) Application of Certain Provisions.—

Any financial institution (as defined in section 5312(a)(2) of title 31, United States Code) that is not already required to comply with subsections (g), (h), (i), and (l) of section 5318 of title 31, United States Code, shall do so on and after June 30, 2024, whether or not a rule has been issued under subsection (b)(1)(B).


(a) In General.—The Secretary of the Treasury, acting through the Director of the Financial Crimes Enforcement Network, shall establish a task force to—

(1) develop an ambitious, comprehensive, and multi-year United States Government strategy to impose anti-money laundering safeguards on all necessary gatekeeper professions;

(2) designate and authorize a Federal or State agency to enforce anti-money laundering requirements for each type of financial institution defined in section 5312(a)(2) of title 31, United States Code; and

(3) advance the regulatory rulemaking required under section 2(b) of this Act.

(b) Gatekeepers Strategy.—
(1) IN GENERAL.—Section 262 of the Countering America’s Adversaries Through Sanctions Act (Public Law 115–44), is amended by inserting after paragraph (10) the following:

“(11) GATEKEEPERS STRATEGY.—A description of efforts to impose anti-money laundering safeguards on all necessary gatekeeper professions, including art dealers, investment advisors, real estate professionals, lawyers, accountants, trust or company service providers, public relations professionals, dealers of luxury vehicles, money service businesses, and other similar professions.”.

(2) UPDATE CLARIFICATION.—If, before the date of the enactment of this Act, all updates to the national strategy required by section 261(b) of the Countering America’s Adversaries Through Sanctions Act (Public Law 115–44) have been completed, the President shall provide an additional update of such national strategy to the Congress containing the contents required under the amendment made by paragraph (1).

SEC. 4. REPORTING BY TITLE INSURANCE COMPANIES.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall promulgate a rule requiring a domestic title
insurance company to obtain, maintain, and report to the Secretary information on the beneficial owners of entities that purchase or sell residential or commercial real estate in transactions in which the domestic title insurance company is involved.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

(e) DEFINITIONS.—In this section:

(1) BENEFICIAL OWNER.—The term “beneficial owner”, with respect to an entity, has the meaning as defined in section 5336 of subchapter II of chapter 53 of title 31, United States Code.

(2) DOMESTIC TITLE INSURANCE COMPANY.—The term “domestic title insurance company” has the meaning given that term in regulations prescribed by the Secretary.